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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,997	11/03/2003	Mark Levine	930009-2015	5362
20999 7590 08/06/2009 FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			EXAMINER PIZIALI, ANDREW T	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 08/06/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
After the Filing of an Appeal Brief

Application No.

10/699,997

Applicant(s)

LEVINE ET AL.

Examiner

Art Unit

Andrew T. Piziali

1794

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 12 September 2008 is acknowledged.

1. ☐ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:
- a. ☐ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).
- b. ☐ The affidavit or other evidence is not timely filed before the filing of an appeal brief. See 37 CFR 41.33(d)(2).
2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☒ The reply is entered. An explanation of the status of the claims after entry is below or attached.
4. ☒ Other: Notice of Non-Compliant Appeal Brief attached.

Due to the amendment filed 9/12/2008 being entered the following rejections are withdrawn:

- 1) Claims 1-4, 7-14, 16, 17, 19, 20, 22, 23 and 39 are no longer rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.
- 2) Claims 1-4, 7-8, 11-14, 16-17, 19-20, 22, 24, 27-28, 31-34, 36-37 and 39-40 are no longer rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,432,850 to Takagi in view of USPN 5,744,236 to Rohrbach in view of any one of USPN 3,842,465 to Sillaots or USPN 5,830,983 to Alex.
- 3) Claims 9-10, 23, 29-30 and 38 are no longer rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,432,850 to Takagi in view of USPN 5,744,236 to Rohrbach in view of any one of USPN 3,842,465 to Sillaots or USPN 5,830,983 to Alex as applied to claims 1-4, 7-8, 11-14, 16-17, 19-20, 22, 24, 27-28, 31-34, 36-37 and 39-40 above, and further in view of USPN 4,803,096 to Kuhn.

The claims are currently rejected as follows:

- 1) Claims 1-4, 7-8, 11-14, 16-17, 19-20, 22, 24, 27-28, 31-34, 36-37 and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,432,850 to Takagi in view of USPN 5,744,236 to Rohrbach.
- 2) Claims 9-10, 23, 29-30 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,432,850 to Takagi in view of USPN 5,744,236 to Rohrbach as applied to claims 1-4, 7-8, 11-14, 16-17, 19-20, 22, 24, 27-28, 31-34, 36-37 and 39-40 above, and further in view of USPN 4,803,096 to Kuhn.

/Andrew T Piziali/
Primary Examiner, Art Unit 1794